

SECOND JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO

COUNTY OF BERNALILLO
NO. CV-96-0009422

CAROL A. CONNOR, and MARY :
BETH HOPKINS, naturalguardian (mother) and next :
friend of MARCUS G.HOPKINS, A MINOR, and all :
others similarly situated, :
Plaintiffs, Deposition of: :
vs. DEBRA A. BAKER :
THE AMERICAN TOBACCOCOMPANY, et al., :
Defendants. :

TRANSCRIPT of testimony as taken by and
before BARBARA JOHNSON, a Certified Shorthand
Reporter and Notary Public of the States of New
York and New Jersey, at the offices of GOODKIND,
LABATON, RUDOFF & SUCHAROW, LLP, 100 Park Avenue,
New York, New York, on Wednesday, June 11, 1997,
commencing at 9:30 in the forenoon.

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I N D E X

WITNESS DIRECT
DEBRA A. BAKER
By Ms. McCourt 5

NUMBER	DESCRIPTION	IDENTIFICATION
Baker 1	Affidavit of Debra Baker	6
Baker 2	Deposition Notice for	70
	UST, Inc. with attached	document request
Baker 3	Letter dated 6/5/97 to	71
	Elizabeth McCourt from	Kenneth Harrigan

D E B R A A. B A K E R,
[DELETED]

sworn.

DIRECT EXAMINATION BY MS. McCOURT:

Q. Miss Baker, my name is Elizabeth
McCourt and I'm with the Branch Law Firm from

Albuquerque, New Mexico, and with me is Sherrill Hondorf. We're going to take your deposition today.

Have you had your deposition taken before?

A. Yes.

Q. So you understand that we're the ones, mostly me, I'm going to be asking you questions and you're going to be giving answers. And if for some reason I ask a question and you don't understand it or it's unclear to you, please ask me and I'll try and rephrase and make it more understandable for you.

Are you taking any medications today?

A. No.

Q. I'm just going to show you what I'm going to have marked as Exhibit 1 for this case. Do you recognize this?

A. Yes, I do.

Q. And what is it?

A. This is an affidavit that I signed. It's for a motion to dismiss a complaint for lack of personal jurisdiction.

Q. And how do you know it's your affidavit?

A. Because I recall seeing it and it's my signature on it.

MS. McCOURT: I'm going to mark this as Exhibit 1.

(Baker 1 marked for identification.)

Q. Have you given an affidavit in other tobacco-related cases?

A. Yes.

Q. And is it the same or similar to this one, aside from the fact that this one is a New Mexico case?

A. Yes.

Q. Do you remember which ones, which cases that you gave your affidavit in?

A. No, I don't recall the names of the cases.

Q. Do you remember the states?

A. I believe I signed one for the State of Pennsylvania, and possibly Texas. I'm not sure.

Q. So just two others you think, or more?

MR. MCKENNA: She said she wasn't sure.

A. I don't recall.

Q. Okay. That's fine.

Did you prepare for today's deposition, Ms. Baker?

A. Yes.

Q. Did you review any documents for this deposition?

A. I looked at that affidavit, which you have just shown me, as well as the notice of the deposition.

Q. Is there anything else?

A. No.

Q. Did you bring any documents with you today?

A. No.
Q. Can you go through your educational background for us, please?
A. I have completed four years of college and one year of paralegal training.
Q. Where did you go to college?
A. Amherst College.
Q. And where is that?
A. Woodstock, Connecticut.
Q. Where did you go to paralegal school?
A. Manhattanville College.
Q. Did you receive any degrees from Amherst?
A. Yes.
Q. In what did you receive your degree?
A. Bachelor of Arts in sociology.
Q. Did you receive any degrees from the paralegal school?
A. Not a degree, but a certificate of training.
Q. Can you go through your work history, starting after college, or after paralegal school if that was subsequent to college?
A. Well, paralegal school was not immediately subsequent to college, so where do you want me to begin?
Q. You can just begin after college then.
A. After college, I worked for a company called Chesebrough-Ponds in the merchandising department.
Q. What year was that?
A. 1977. Following that, I worked in the legal department for International Playtex, Incorporated.
Q. And what year was that, do you remember?
MR. McKENNA: You mean what year she started?
MS. McCOURT: Sure. The years that she worked there.
A. From 1978 to approximately, I think it was 1979.
Q. Okay. Just a year.
And after that?
A. And then after that, I went to Revlon, Inc. in the legal department.
Q. And that was from '79 until?
A. Until 1983.
In 1983 I began working for United States Tobacco Company.
Q. And what did you do specifically with United States Tobacco Company, starting in 1983?
A. I was employed in the legal department as a legal assistant.
Q. And then just continue. Did you have the same job for '83, '84?
A. I essentially had the same job up until -- well, I had the same job, but in 1985 my title

changed.

Q. And what did your title change to?

A. Shareholder relations manager.

Q. Let me just go back. When you were a legal assistant for United States Tobacco Company, what were your specific duties?

A. I assisted the corporate secretary with respect to matters of corporate governance, securities compliance, stockholder relations.

Q. In 1985 when you became a manager of the shareholders, that was in essence a promotion, right?

MR. MCKENNA: Object to the form of the question.

Q. Was it a promotion?

A. Yes, but my duties did not change.

Q. Okay. Did you have any additional duties as a manager of the shareholders?

MR. MCKENNA: Additional to what she had before?

MS. McCOURT: Um-humm.

A. No.

Q. How long did you work in this capacity as a manager of the shareholders?

A. In 1986, a year later, I was promoted to assistant secretary.

Q. Of United States Tobacco Company?

A. Correct.

Q. What was the difference between your job as manager of the shareholders -- am I saying that right, manager of the shareholders? Right, that's what you were? I just want to make sure I'm saying your title right.

MR. MCKENNA: I think she's asking you what your position was as of 1985 when your title changed. She's asking you to tell her that again.

A. My title was manager of shareholder --

Q. Okay.

A. -- relations.

Q. Okay. And then you became assistant secretary in 1986?

A. Correct.

Q. And then what were your duties as assistant secretary?

A. They were the same.

Q. Same. No additional duties?

A. No.

Q. Did you receive an increase in salary?

A. I believe so. I don't recall.

Q. How long were you the assistant secretary?

MR. MCKENNA: I think as a point of clarification, in the mid-'80s, around this time, there were various corporate reorganizations. So when you ask your question, you may want to ask it in a different way to take account of the fact that things may have been going on that would have resulted in her changing positions with respect to what corporation she was working for at the time.

MS. McCOURT: She did tell me she was working for the United States Tobacco

Company.

Q. And if that changed from United States Tobacco Company or UST, you'll just make sure and clarify that for us, won't you, if you switched over?

A. Yes.

Q. But you said when you were assistant secretary, you were assistant secretary of United States Tobacco Company, isn't that correct?

A. Yes.

Q. So why don't you just explain to us how long you were in that position.

A. In 1987, when UST, Inc. became effective as the public holding company and parent of United States Tobacco Company, I then became assistant secretary of UST, Inc., but I also maintained the title with United States Tobacco Company.

Q. So in 1987 you were both assistant secretary for United States Tobacco Company and assistant secretary for UST, Inc.?

A. That's correct.

Q. Do you remember approximately what month that was in 1987?

A. In May of 1987.

Q. Can you explain to us your dual -- it seems to have been a dual function of United States Tobacco and UST. What did you do when you were assistant secretary for both of those companies?

MR. MCKENNA: Object to the form of the question.

I think she's asking you to explain your duties as assistant secretary for UST, Inc. and explain your duties for the United States Tobacco Company.

MS. McCOURT: And explain them both as they related together as a dual function.

MR. MCKENNA: Well, now the question is getting really complicated and I don't know what you mean by dual function. Why don't you just ask her what she did in each capacity, rather than trying to put a conclusion on it.

MS. McCOURT: Why don't you let me ask the questions.

Q. First let's just explain, you're assistant secretary for UST, for United States Tobacco Company, and did your duties change in 1987 as it relates to United States Tobacco Company?

MR. MCKENNA: Do you understand the question?

THE WITNESS: Yes.

A. Yes, my duties did change.

Q. How did they change?

A. Since United States Tobacco Company was no longer a public entity, it had no stockholders other than UST, Inc. So therefore that function was no longer related to United States Tobacco Company. It had no securities compliance.

Q. Are you talking about United States Tobacco Company at this point?

A. Right.

Q. And I'm sorry, what did you say?
Had no securities compliance. Okay.

A. Therefore those two functions were solely related at that time to UST, Inc. and not related to my function with the United States Tobacco Company.

Q. So let's just quickly go through your duties as it relates to UST, Inc.

MR. MCKENNA: Well, now you're asking her today what her duties are?

MS. McCOURT: No, I'm asking her when it switched over in 1987, in May.

MR. MCKENNA: Okay. The question was in the present tense and I don't know what you mean by quickly. I assume you want her to give a full complete answer.

MS. McCOURT: Of course I do.

MR. MCKENNA: Do you know what the question was?

A. Yes, could you repeat the question?

Q. Sure. I just want to know in May of 1987, when UST became an entity, and you said you had the job of assistant secretary in both United States Tobacco and UST, Inc., what was your job at UST, Inc.?

MR. MCKENNA: Well, I'm going to object to the form of the question. Can you just ask her a simple question?

MS. HONDORF: Can you just object and not tell her how to respond.

MR. MCKENNA: Excuse me, may I finish without all the recapping?

I think what you want to ask her is as of May 1987 when she assumed functions with UST Inc., what were they.

Q. Had you understood my question, Miss Baker?

A. Well, it was a little confusing.

Q. Okay. Just tell me what you did at UST, Inc. starting in May of 1987.

A. I, again, assisted the corporate secretary of UST, Inc. in the functions of securities compliance, corporate governance and stockholder relations.

Q. Just before we get too far, can you just explain what you mean by stockholder relations, what that entails?

A. It entails acting as the corporate liaison with the company's stock transfer agent. Responding to written and oral inquiries from stockholders concerning a number of things, such as inquiries about the dividend reinvestment plan, dividend payments, stock transfer instructions.

Q. Did you have any coordinated functions?

MR. MCKENNA: Object to the form of the question. Do you know what she means by that?

THE WITNESS: No.

Q. Did you have any duties that related both to United States Tobacco and UST?

MR. MCKENNA: I'll object to the form of the question. I still don't understand what you mean by that.

Do you?

THE WITNESS: No, I don't.

Q. Well, you said you had these duties with UST and you had duties for United States Tobacco. Was there any specific function that you did, like stockholder relations, for example, that you did things both for United States Tobacco and UST?

MR. McKENNA: Object to the form of the question. I truly don't understand it because she could do two things, each for each company, that could be the same thing, or she could do one thing for both companies. And your question is ambiguous. Why can't you just ask her what she did for United States Tobacco Company, what she did for UST, Inc., and then you'll have all you need to know.

Do you understand what she means by the word "both"?

THE WITNESS: No.

Q. I just want to know if there was some specific job that you were answering to both United States Tobacco and to UST.

MR. McKENNA: Object to the form of the question. Same objection.

Q. You can answer, if you know.

MR. McKENNA: Do you understand the question?

THE WITNESS: No, I don't understand the question because they're two different companies.

Q. Okay. I'm just confused then.

Who paid your salary? Did you get a salary check from UST, Inc., did you get a salary check from United States Tobacco?

MR. McKENNA: Counsel, your confusion does not add anything to the record. If you want to ask her who she got her check from, that's fine, just ask her that question. But I don't think you need to tell us what your confusion is.

MS. McCOURT: Could you please be polite.

MR. McKENNA: Well, I think, and if you want to get into this kind of debate, I can, but I'll ask everyone in the room, am I being polite?

MS. HONDORF: You are coaching the witness.

MR. McKENNA: I'm not coaching the witness.

MR. HARRIGAN: Just a moment, Miss. You may need to know in the New Mexico procedure, only one attorney for the party or the parties is allowed to speak on the record. I understand for these deposition purposes it's going to be Miss McCourt.

MS. HONDORF: That's right.

MR. HARRIGAN: For our side it's going to be Mr. McKenna. So I don't think you're entitled to interject questions or objections at the deposition anymore than I am. And I'm going to keep quiet to the extent that you will.

MS. HONDORF: Well, I'm going to speak when I feel it necessary. And if you have a problem, you state it on the record.

Q. Miss Baker, who paid your salary?

MR. McKENNA: When?

MS. McCOURT: During what we're talking about, between May 1987, during that period of time.

MR. McKENNA: Well, you say during that period of time.

MS. McCOURT: For your functions for United States Tobacco and your functions for UST, where did your paycheck come from?

MR. McKENNA: I'm going to object to the form of the question. I seriously don't understand why we can't have a simple question, a direct simple question as to a given time frame.

I think she's asking you when you began working for UST, Inc. in May 1987, who issued you your checks, if you remember.

A. Is that the question?

Q. You can answer that question.

A. UST, Inc.

Q. Did you receive any form of -- was there a total switch -- in 1987 did you complete -- when did you complete your job with United States Tobacco? I'll just ask that one question. When did you complete your job with United States Tobacco?

MR. McKENNA: Do you understand that question?

She's previously testified she continued to perform a function for United States Tobacco Company.

Q. Did you ever completely stop working for United States Tobacco Company?

MR. McKENNA: To the present?

A. Well, what do you mean stop working? Being employed by --

Q. Yes.

A. -- or working for them? There is a difference in my mind.

Q. Okay. Why don't you explain the difference, and tell me when you stopped working for them and when you stopped being employed by them.

A. Well, I never stopped working --

Q. Okay.

A. -- for it --

Q. Okay.

A. -- because I perform services --

Q. Okay.

A. -- for United States Tobacco.

Q. That's what I was getting at.

A. But I'm employed by UST, Inc.

Q. Okay. And to date, you continue to do services for United States Tobacco Company?

A. Yes.

Q. Can you explain for us the transition or the -- when UST, Inc. came into play, when it came to be, when it was effective as the holding company, what happened as far as -- what happened within --

MR. MCKENNA: Look, I don't mean -- I really am trying not to say anything, but you are asking -- you're starting a question in about four different directions with transitions, and then you're stopping and then you're asking another question. Could you just please ask one question at a time from beginning to end? It's helpful if it has a time frame. And she will answer the question. I mean I'm trying not to say anything, but the way you start off, it's very difficult to know what question you're asking.

Q. And, Miss Baker, if I'm being confusing, just tell me to stop and I'll just ask the question again, so he doesn't have to interject at every question.

Q. Starting -- when you said -- when UST, Inc. became effective in 1987, can you tell us how it became effective, what happened?

A. It was a reorganization of UST, Inc. into a public holding company, which was approved by the stockholders on May -- in May of 1987.

Q. Can you just explain to us what you mean by a reorganization?

MR. MCKENNA: I'm sorry. Can we have the question read back?

(The question was read by the reporter.)

A. As I mentioned earlier, United States Tobacco Company, prior to 1987, was the public entity. UST, Inc. was incorporated in December of 1986 and was reorganized as the public parent, holding company, of United States Tobacco Company subject to stockholder approval in May of 1987.

Q. What happened with the stock of United States Tobacco Company during this time from let's say December 1986 until May 1987?

A. What do you mean by what happened to --

Q. Did UST, Inc. purchase or transfer, get all the stock of United States Tobacco Company?

MR. MCKENNA: It's only to the extent you know. If you don't know how the reorganization was done --

A. There was -- I don't recall exactly the mechanics of it, but what occurred was that effective with stockholder approval in May of 1987, shares held by people of United States Tobacco Company were not physically exchanged --

Q. Right.

A. -- but in effect were exchanged for shares of UST, Inc. in the same amounts.

Q. Okay. So it was a one-on-one basis?

MR. MCKENNA: You mean share for share?

MS. McCOURT: Um-humm.

A. Yes, that's correct.

Q. So in May 1987, when UST, Inc. was the public parent of United States Tobacco Company, did UST, Inc. own 100 percent of the United States Tobacco stock?

A. Yes.

Q. Was there any debt structure or

asset shifting from United States Tobacco Company to UST at this point, May of 1987?

MR. McKENNA: I'll object to the form of the question. That's two questions. Could you please ask them one at a time?

MS. McCOURT: Sure.

Q. Did the debt structure change?

MR. McKENNA: If any. And which corporation are you talking about now?

Q. Was the debt shifted from United States Tobacco to UST?

MR. McKENNA: If there was debt and if you know.

A. I don't know.

Q. Is there anyone that would know?

A. Our finance department would know.

Q. What about assets?

MR. McKENNA: And again, I think the question is transfer of assets from United States Tobacco Company to UST, Inc. at the time of the reorganization.

A. Eventually assets were transferred, however they were not all transferred to UST Inc. And I don't recall exactly when the time period occurred for these transfers, but they were divided among other subsidiaries.

Q. How many other subsidiaries are there of UST, Inc.?

A. UST, Inc. has four direct wholly-owned subsidiaries.

Q. Okay. Do you know what they are?

A. United States Tobacco Company, UST Enterprises, Inc., UST International, Inc., and International Wine & Spirits, Ltd.

Q. Does UST Enterprises, Inc. have any tobacco-related functions? What do they do?

MR. McKENNA: Today, right?

MS. McCOURT: Sure.

A. UST Enterprises is a holding company for all nontobacco-related businesses.

Q. What about UST International, Inc.?

A. UST International, Inc. is a holding company for all businesses located outside of the United States.

Q. Does that include tobacco?

A. Yes.

Q. Okay. And what about International Wine & Spirits, Ltd.?

A. That is a holding company for the wine businesses.

Q. Are there any other subsidiaries?

MR. McKENNA: Of?

Q. Of UST, Inc.?

A. No.

Q. And are there any subsidiaries of each subsidiary?

A. Yes.

Q. Can you explain which ones, what they are?

MR. McKENNA: Why don't you take it one at a time, just to avoid --

Q. Sure. You tell me. United

States -- I'll list them. You tell me.

A. United States Tobacco Company has two principal operating subsidiaries.

Q. What are they?

A. United States Tobacco Manufacturing Company, Inc. and United States Tobacco Sales and Marketing Company, Inc. In addition, it has several smaller and inactive companies.

Q. What do you mean by inactive? Were they at one time active subsidiaries, or smaller?

MR. MCKENNA: Object to the form of the question.

Q. Did you understand my question?

A. Could you repeat it?

Q. Sure. Were they ever active, these smaller subparts of these --

A. The ones that are inactive?

MR. MCKENNA: Well, you know, you start saying smaller subparts of.

MS. McCOURT: That's what she was explaining it to me as. I was just trying to make it clear for her.

MR. MCKENNA: All I want is just a simple complete sentence, you know, with a subject and a verb, maybe an object if it's got it. Like if you want to ask her what does she mean by inactive, if you want to ask her whether any of the inactive companies were at any time active, that's fine. But when you start mixing up smaller with inactive, and she described them as two different things, I'm really --

MS. McCOURT: Is that an objection or a comment?

MR. MCKENNA: I'm just trying to get a clear question so the record is clear, we're all happy, and I can sit here and say nothing. That's all I'm asking.

Q. Had you understood what I meant? What do you mean by inactive? What were these inactive companies?

MR. MCKENNA: That's two questions. Could you please ask one question at a time?

A. What do I mean by inactive?

Q. Um-humm.

A. They are in existence but do not operate.

Q. Had they operated?

A. Yes. I believe at one time or another they had.

Q. And what were they?

MR. MCKENNA: Are you asking the name of each?

MS. McCOURT: Whatever they were, names or what their function was.

A. One subsidiary that comes to mind is called Central American Cigar Company. Another one was the Lock Ledge Corporation.

Q. What did that corporation do?

A. I don't know.

Q. Any others?

A. I can't think of them offhand.

Q. What about UST Enterprises, Inc.? Does it have or did it have any subsidiaries?

A. Yes, it has subsidiaries.

Q. Okay. And what are its subsidiaries?

A. It has a subsidiary named Cabin Fever Entertainment, Inc. It also has a subsidiary named UST Public Affairs, Inc. And it has a subsidiary named GBN, Inc.

Q. Are there any additional subsidiaries of these subsidiaries?

A. Cabin Fever Entertainment, Inc. has subsidiaries.

Q. Do you know approximately how many?

A. Approximately four.

Q. And did those subsidiaries have any subsidiaries?

A. No.

Q. What about UST International, Inc., did it have subsidiaries?

A. Yes.

Q. Do you know the names of them?

A. Yes.

Q. Could you tell us, please?

A. United States Tobacco International, Inc., UST Global Enterprises, Inc., those are the only two direct subsidiaries.

Q. Do those subsidiaries have subsidiaries?

A. Yes.

Q. How many does United States Tobacco International, Inc. have?

A. Approximately four.

Q. And did those subsidiaries have any subsidiaries?

A. Yes.

Q. And how many?

A. I'm sorry, I have lost track what level we're on.

Q. Okay. Sure. We're on from UST, Inc. to UST -- I'm sorry, to UST International, Inc. to its subsidiaries, United States Tobacco Company, International, Inc., and UST Global Enterprises, Inc., and then those had four subsidiaries; and then I'm asking about the next step, the next subsidiaries, just how many.

MR. McKENNA: Do you want her to spell out each, so you can focus on each separately?

THE WITNESS: That would be helpful.

Q. Sure. Do you want to draw it, and would that make it easier?

MR. McKENNA: No, we're here to give testimony, not here to create drawings.

MS. McCOURT: We could certainly make a simple document of corporate structure. It might be easier for you to understand.

MR. McKENNA: Well, we are not going to do it, so let's get on with the deposition.

MS. McCOURT: So you're objecting to her drawing --

MR. McKENNA: Yes.

MS. McCOURT: -- the corporate

structure?

MR. McKENNA: I think I said that.

MS. McCOURT: Just asking for clarification. Thanks.

MR. McKENNA: Okay.

Q. How about we name the four subsidiaries that you said of -- or the four subsidiaries of United States Tobacco International, Inc.

A. National Tobacco Company, Ltd., Independence Products, Inc., Agricola Tabacalera Habanos Hondureños, S.A., and UST Industries International, Inc. or UST International Industries, Inc., I don't recall the exact name.

Q. And what are the subsidiaries of those?

A. National Tobacco Company, Ltd. has three subsidiaries; NTC Marketing, Ltd., Skoal, Inc., and Copenhagen, Inc.

Independence Products has two subsidiaries, they are IPI Servicios de Mexico and IPI -- it's either Operados or Operaciones de Mexico. I don't recall exactly.

Agricola Tabacalera Habanos Hondureños has three subsidiaries. And you'll have to excuse me because I'm going to use the acronyms.

Q. That's fine.

A. Because I don't recall exactly the lengthy Spanish names. One is BETASA, one is CACSA, one is FAMOLCO, and the other is PATALSA.

Q. So there are four?

A. Yes, excuse me.

Q. That's okay.

A. What am I missing?

Q. The UST Industries, Inc.

MR. McKENNA: UST International Industries, Inc.

A. I don't recall the name of it. It's a fairly recent incorporation and it's a Spanish name.

What's next?

Q. I think you finished.

The last one is International Wine & Spirits, Ltd.

MR. McKENNA: What's your question?

MS. McCOURT: Subsidiaries.

A. International Wine & Spirits, Ltd. has no subsidiaries.

No, excuse me, they had one subsidiary. One is merged into the other. Stimson Lane, Ltd.

Q. Did that have a subsidiary?

A. Yes.

Q. Do you remember the name?

A. Yes. M. W. Wigby, Ltd.

Q. Does that have a subsidiary?

A. No.

Q. And UST is the holding company for each of the main companies; United States Tobacco Company, UST Enterprises, Inc., UST International, Inc., and International Wine & Spirits, Ltd., is

that right?

A. Yes.

Q. Were the shares bought one for one by UST, Inc. of each of the UST Enterprises, Inc., UST International, Inc. and International Wine & Spirits, Ltd.?

MR. MCKENNA: Object to the form of the question.

A. I don't understand the question.

Q. Was the formation of those other three the same as United States Tobacco Company?

MR. MCKENNA: Object to the form of the question. The same?

Q. Let's start with UST Enterprises, Inc. How did UST, Inc. become the holding company of UST Enterprises, Inc.?

MR. MCKENNA: Object to the form of the question.

Q. Did you understand the question?

A. No. What do you mean how did it become?

Q. When did UST Enterprises, Inc. come into being?

A. I believe it was incorporated either at around the same time that UST, Inc. was incorporated or shortly thereafter.

Q. So would that be December 1986 as well, around that time?

A. Possibly.

Q. Is UST, Inc. the sole stockholder of UST Enterprises, Inc.?

A. Yes.

Q. When did UST International, Inc. come into being?

A. I believe it was incorporated in 1990 or thereabouts.

Q. And is UST, Inc. the sole stockholder of UST International, Inc.?

A. Yes.

Q. When did International Wine & Spirits, Ltd. come into being?

A. I believe that was incorporated around the same time as UST Enterprises, Inc.

Q. So approximately December of 1986 as well?

A. Possibly.

Q. And does UST, Inc. own 100 percent of the stock of International Wine & Spirits, Ltd.?

A. Yes.

(Brief recess.)

Q. Right now I want you to talk about the incorporation of UST in December of 1986. Why did that come about?

A. At that time it was decided to form a holding company for the purpose of achieving organizational flexibility in terms of separating the various lines of the company's businesses.

Q. Who decided this?

A. The Board of Directors of United States Tobacco Company.

Q. Do you know who those Board of Directors were?

A. Do you mean the names of the board members?

Q. Yes.

A. I only recall the name of the chairman of the board at that time.

Q. Okay. What was his name?

A. Lewis F. Bantle.

Q. How do you spell Bantle?

A. B-a-n-t-l-e.

Q. What were the duties of the holding company? You said to obtain organizational flexibility.

MR. MCKENNA: I'm sorry, I object to the form of the question. I believe you asked her why was UST, Inc. incorporated in December 1986, and she answered that. Now what is your question?

Q. What do you mean by achieving organizational flexibility? Can you just explain that a little more?

A. To provide a clearer separation of the company's different businesses.

Q. Did any of the Board of Directors of United States Tobacco Company become part of the Board of Directors of UST, Inc.?

MR. MCKENNA: Time frame?

MS. McCOURT: Incorporation, December 1986.

A. No.

Q. Any time after December 1986?

A. Yes.

Q. Do you know approximately when?

A. In May of 1987.

Q. Do you know who?

A. Once again, I only recall the name of the chairman of the board.

Q. Do you remember how many people became Board of Directors of UST, Inc. from the United States Tobacco Company?

MR. MCKENNA: In May 1987?

MS. McCOURT: Yes.

Q. If you don't remember the names, perhaps you remember how many people.

A. No, I don't remember.

Q. Is there anyone who would know?

A. I don't know.

Q. Do you know if there would be any sort of documentation of this?

A. Yes.

Q. Do you know who would have that documentation?

A. I would.

Q. You would? In your files?

A. Yes.

Q. When those directors of United States Tobacco Company became directors of UST, Inc., did they retain their director status in United States Tobacco Company? Were they directors in both?

MR. MCKENNA: This is May 1997?

MS. McCOURT: Yes.

A. I don't recall.

Q. Would you have this sort of documentation in your file?

A. Yes.

Q. When UST was formed, incorporated in 1986, how many employees did it have? Did it have any employees?

A. I don't know.

Q. Do you know if there were other people such as yourself who performed functions for both UST, Inc. and United States Tobacco Company?

MR. McKENNA: Object to the form of the question.

Q. Did you understand the question?

MR. McKENNA: What time frame are we talking about?

MS. McCOURT: We're talking about incorporation in December of 1986.

A. Until?

Q. And through May 1987. And then through the present. So three -- let's start with incorporation.

Incorporation, were there any other employees such as yourself who performed functions for both UST, Inc. and United States Tobacco Company?

MR. McKENNA: I'm not sure. Maybe it was established, but I'm not sure she said she was performing functions for United States Tobacco Company as of December of 1986.

A. I'm confused. Can you start from the beginning of the question again?

Q. Sure.

MS. McCOURT: Do you want to read it back?

(The question was read by the reporter.)

MR. McKENNA: I have her prior testimony as her duties changed in May 1987 concerning United States Tobacco Company.

MS. McCOURT: Then we can answer the question from May 1987.

Q. I think I'm mistaken. Your functions switched. You did functions for UST, Inc. and United States Tobacco Company, as you previously testified, starting in May 1987. Is that correct?

MR. McKENNA: I don't know. Is that true?

A. When UST, Inc. was incorporated in December of 1986, I performed the function of doing the documentation involved, as well as the documentation relating to the organization.

Q. Okay. And from December 1986 until the time of incorporation, until May 19 --

A. December '86 was incorporation.

Q. I'm sorry. Okay, from the December 1986 incorporation until May 1987, what was the status of UST, Inc.?

MR. McKENNA: Objection to the form of the question.

A. What do you mean by the status of UST, Inc.?

Q. It became the parent company in May 1987?

A. Correct.

Q. But it was incorporated in December 1986 --

A. Correct.

Q. -- beginning in that interim period?

MR. McKENNA: Object to the form of the question.

Q. Did you understand the question?

A. No.

Q. Was UST an entity? Was it performing any functions between 1986, December 1986, and May 1987?

A. Did it perform functions?

Q. Um-humm.

A. I don't recall.

Q. Now, starting in May 1987, when you were performing functions for both UST, Inc. and United States Tobacco Company, were there any other employees who were doing the same thing as you?

MR. McKENNA: Object to the form of the question.

Q. Were there any other employees that you know of working for both UST, Inc. and United States Tobacco Company?

MR. McKENNA: This is after the reorganization in May 1987?

MS. McCOURT: Right.

A. Were there any employees working for both UST, Inc. and United States Tobacco Company?

Q. Performing functions for both such as you were.

A. Yes.

Q. Do you remember who they were and what they did?

A. I don't recall the individual names, but I recall the positions.

Q. Could you tell us the positions?

A. The treasurer. The secretary. That's all that I recall.

Q. As you testified, you were the assistant secretary at that time?

A. Yes.

Q. Do both the secretary and the treasurer continue to date to perform functions for both UST, Inc. and United States Tobacco Company?

A. Yes.

Q. What is your position today?

A. I'm senior vice president and secretary.

Q. I just wanted to complete your job history. When did you leave your position or get promoted from assistant secretary?

MR. McKENNA: UST? You're talking about assistant secretary of UST, Inc.?

MS. McCOURT: And United States Tobacco Company.

Q. You said you were performing functions for both with the same title from 1987. From May I think we left off.

MR. McKENNA: I would object to the form of the question to the extent you are not asking them one at a time.

Q. Well, let's just say from May 1987, how did your job progress?

MR. McKENNA: Object to the form of the question.

Just continue with your job history from May 1987.

A. From May of 1987?

Q. Yes.

A. With UST, Inc. or United States Tobacco Company?

Q. If you could go through both.

A. In May of 1987 I was assistant secretary of UST, Inc. as well as assistant secretary of United States Tobacco Company.

In July of 1995 I became secretary of UST, Inc. as well as secretary of United States Tobacco Company.

In May of 1997 I became senior vice president and secretary of UST, Inc. and of United States Tobacco Company.

Q. What are the products of United States Tobacco Company?

MR. McKENNA: I'm not sure what this has to do with personal jurisdiction, which is what we're all here about. I'll let you ask some questions, but I think we ought to try to keep it limited to the matter that's at issue.

Q. Can you answer the question?

A. Could you repeat the question?

Q. Sure. What are the products of United States Tobacco Company?

MR. McKENNA: Object to the form of the question.

A. What do you mean by what are the products?

Q. What does United States Tobacco Company sell?

A. It doesn't sell anything.

Q. When did it stop -- what did it sell?

A. When?

Q. At any time.

A. Up until 1989 or '90, it sold moist smokeless tobacco products.

Q. Did it sell them in the State of New Mexico?

A. I don't know.

Q. Do you know who would know?

A. I don't know who the person in charge of sales at that time would have been. I don't know.

Q. Are there records of this?

A. Yes.

Q. Do you know who would have the records?

A. I would.

Q. Does United States Tobacco Company currently advertise in the State of New Mexico?

A. No.

Q. When they were selling products, did they advertise in the State of New Mexico?

A. I don't know.

Q. Do you know who would know?

A. I don't know.

Q. Would there be any documentation of

advertising?

A. What do you mean?

Q. Records.

A. I don't know.

Q. Do you know anyone who would know?

A. No.

Q. Why did United States Tobacco Company stop selling products such as smokeless tobacco in '89 or '90?

MR. McKENNA: Time period?

MS. McCOURT: She said until '89 or '90.

MR. McKENNA: No, but you said in '89 or '90. And I assume you mean time period. Or is that an incomplete question?

Q. Did you understand what I meant?

A. Repeat the question.

Q. Why did they stop selling tobacco products in 1989 or '90?

A. United States Tobacco Company had reorganized its operations into two principal subsidiaries, United States Tobacco Manufacturing and United States Tobacco Sales and Marketing Company.

Q. Did those two subsidiaries sell products?

A. One did.

Q. The sales and marketing section I'm guessing.

A. Yes.

Q. Currently?

A. Yes.

Q. And what do they sell specifically?

A. Moist smokeless tobacco products.

Q. Is it fair to say that by 1989-'90 U.S. Tobacco Sales and Marketing, Inc. took over the function of sales entirely for United States Tobacco Company?

A. I don't know.

Q. Do you know who would know?

A. No.

Q. Would there be any record of what their function was?

A. I don't know.

Q. Who owns the stock of United States Tobacco Sales and Marketing, Inc.?

A. United States Tobacco Company.

Q. Does United States Tobacco Sales and Marketing, Inc. sell their products in New Mexico?

A. Yes.

Q. Do you know what their net profit is in New Mexico?

A. No.

Q. Do you know who would know?

A. No.

Q. Do you know who would have records of this?

A. Records of what?

Q. The net profit.

A. No, I don't know who would have that.

Q. Do you know who would have records of sales in New Mexico?

A. No.

Q. Do you have an accounting office at UST, Inc.?

A. Yes.

Q. Would they have any records of the sales of United States Tobacco Sales and Marketing, Inc.?

A. Yes.

MR. McKENNA: Object to the form of the question.

Q. Does the accounting office at UST, Inc. keep records of its subsidiaries?

A. Yes.

Q. What's the function of United States Tobacco Manufacturing, Inc.?

A. It manufactures moist smokeless tobacco products.

Q. Does UST, Inc. have any input into the manufacturing process of United States Tobacco Manufacturing, Inc.?

MR. McKENNA: Object to the form of the question.

May I have it read back, please?
(The question was read by the reporter.)

MR. McKENNA: Object to the form of the question.

Q. What sort of contact -- oh, I'm sorry. You can answer the question, if you know.

A. I don't know.

Q. Do you know of any contact between UST, Inc. and United States Tobacco Manufacturing, Inc.?

MR. McKENNA: Object to the form of the question.

A. I don't understand the question.

Q. Well, you said the accounting office has records of its subsidiaries. UST, Inc.'s accounting office has records of the subsidiaries. Does it have records of United States Tobacco Manufacturing Company, Inc.?

A. Yes.

Q. Do you know of any other contact of UST, Inc. with United States Tobacco Manufacturing, Inc.?

MR. McKENNA: Object to the form of the question. Object to the word "other" as well.

Can you answer the question?

A. What do you mean by contact?

Q. Any committees or employee contact, reports, meetings?

MR. McKENNA: Okay. Let's take those one at a time. First one, committees, could you ask a question about committees?

MS. McCOURT: Could I or shall I?

MR. McKENNA: Could you or shall you, whatever. But could you ask a question about committees if that's what you want to ask about?

Q. Just to give you examples, are there any meetings that there would be members of both UST and United States Tobacco Manufacturing, Inc.?

A. No.
Q. Does United States Tobacco Manufacturing, Inc. send any reports to UST, Inc.?
A. I don't know.
Q. Do you know of anyone that would know?
A. No.
Q. Are there any committees that require members of both UST, Inc. and United States Tobacco Manufacturing, Inc.?
A. No.
Q. Does UST, Inc. have any committees?
A. Yes.
Q. What kind of committees does UST, Inc. have?
A. UST, Inc. has two kinds of committees. It has committees appointed by the Board of Directors and it has committees appointed by the chief executive officer.
Q. What are the committees of the Board of Directors?
A. The committees of the Board of Directors consist of the audit committee, the nominating and compensation committee, the stock option committee, and the employee benefits administration committee.
Q. What about the ones appointed by the CEO?
A. Those committees consist of a charitable contributions committee, the finance committee, a safety and health committee, or safety and first aid committee, I can't recall the exact name. Offhand, I don't recall the others.
Q. And who would get appointed to a Board of Directors committee?
MR. McKENNA: Object to the form of the question.
Q. Who is on the audit committee?
A. The audit committee is currently comprised of three members, Edward H. de Horthy, Jr., General P. X. Kelly, and Lowell P. Weicker, Jr.
Q. Ed de Horthy, is he one of the directors of UST, Inc.?
A. Yes.
Q. Is he one of the board members of any of the other subsidiaries?
A. No.
Q. What about General Kelly, is he a board member of UST, Inc.?
A. Yes.
Q. And is he a board member of any of the other subsidiaries?
A. No.
Q. Lowell Baker is it, or Blaker?
MR. McKENNA: Weicker.
MS. McCOURT: Okay. I can't read my writing.
Q. Is he a board member of UST, Inc.?
A. Yes.
Q. And is he a board member of any other subsidiaries?
A. No.

Q. I want to ask you the same for the -- are there any committee members who are -- are all the committee members also members of the Board of Directors of UST, Inc., currently?

A. Which committees?

Q. Do you want to go through each individual committee?

Nominating and compensation committee?

A. That committee consists solely of UST board members.

Q. And are any of those board members also board members of any of the subsidiary companies?

A. No.

Q. And for the stock option committee, are all of those members board members of UST, Inc.?

A. Yes.

Q. And are any of them board members of any of the subsidiary companies?

A. No.

Q. And for the employee benefits administration committee, are those all board members of UST as well?

A. No.

Q. What are their titles?

A. I serve on that committee. Another senior vice president serves on that committee.

Q. Is that senior vice president -- what was his name?

A. Richard Kohlberger.

Q. Is he senior vice president of any of the subsidiaries?

A. No. He's only senior vice president of UST, Inc.

Q. Does he have any other functions or titles with any of the subsidiary companies?

A. No.

Q. Who else is on the committee?

A. Wendy Grammas, the treasurer.

Q. So from your previous testimony, is it fair to say that she's the treasurer for UST, Inc. as well as United States Tobacco Company?

A. That's correct.

Q. Is there anyone else on the committee?

A. Alton Adams.

Q. Can you spell his first name, please?

A. A-l-t-o-n.

Q. What is his title/position with UST, Inc.?

A. He doesn't have one.

Q. Does he have any title with any of the subsidiaries?

A. Yes.

Q. Which one?

A. United States Tobacco Company.

Q. What is his title with United States Tobacco Company?

A. Senior vice president.

Q. Is there anyone else on that

committee?

A. I don't recall.

Q. Would there be a record of committee members?

A. Yes.

Q. And who would have that?

A. I would.

Q. For the committees of the CEO, the charitable contributions committee, who are the members of that committee?

A. Robert Barrett, Edward Kratouil, Valerie Held. I don't recall who else.

Q. Do they all work for UST, Inc.?

A. Yes.

Q. Do any of them have any title or function with any of the subsidiaries?

A. I don't recall.

Q. Do you know who would know?

A. I would. I have records.

Q. Okay. What about for the finance committee, are those all employees in some capacity for UST, Inc.?

A. No, not all members.

Q. What about for the subsidiaries?

MR. McKENNA: Object to the form of the question. What's the question?

Q. Are members of the finance committee employed in some capacity with any of the subsidiaries for UST, Inc.?

A. Yes.

Q. Could you please name them and what subsidiary they're associated with?

A. Jonathan Nelson is president of Cabin Fever Entertainment, Inc. Alton Adams, senior vice president, U.S. Tobacco Company. I believe those are the only two members.

Q. For the safety and first aid committee, if that's its correct title, are any of those members employed with any of the subsidiaries of UST, Inc.?

A. I don't know.

Q. Do you know who would know?

A. Human resources.

Q. I'm going back a little bit. When we were talking about U.S. Tobacco Sales and Marketing, Inc., do they advertise in the State of New Mexico?

A. I don't know.

Q. Do you know if they nationally advertise?

A. I don't know.

Q. Do you know who would know?

A. No.

MS. McCOURT: Do you want to take a break for five minutes?

MR. McKENNA: Sure.

(Brief recess.)

MS. McCOURT: I'm back on the record.

Q. I'm going to go back again to December of 1986 when UST, Inc. was incorporated. What was UST, Inc.'s address?

A. 100 West Putnam Avenue, Greenwich,

Connecticut, 06830.

Q. And what was the address of United States Tobacco Company, also in December 1986?

A. 100 West Putnam Avenue, Greenwich, Connecticut, 06830.

Q. For how long did UST, Inc. and United States Tobacco Company have the same address?

A. United States Tobacco Company had several addresses. Not only did it have an address at 100 West Putnam Avenue, but it also had an address in Illinois, Kentucky and Tennessee.

Q. Did UST, Inc. have other addresses as well?

A. No.

Q. Is this the current address of UST, Inc.?

MR. McKENNA: You mean 100 West Putnam?

MS. McCOURT: Yes.

A. Yes.

Q. Is it also the current address of United States Tobacco Company?

A. Yes.

Q. Do UST, Inc. and United States Tobacco Company have the same telephone line as well?

MR. McKENNA: Today?

Q. Today and back in 1986, if you can remember.

MR. McKENNA: By telephone line, I take it you mean telephone number?

MS. McCOURT: Number, line.

MR. McKENNA: Well, there are lines and there are numbers. I take it you mean the telephone number. Is that the question?

MS. McCOURT: Telephone number.

A. I'm not sure.

Q. If I looked in the Greenwich phone book, would I be able to find out?

A. I don't know.

Q. Okay. What's the principle place of business of UST, Inc.?

A. Greenwich, Connecticut.

Q. And what's the principal place of business for United States Tobacco Company?

A. Greenwich, Connecticut.

Q. Is United States Tobacco Company a member of any trade organizations?

A. Yes.

Q. Do you know which ones?

A. I believe they're tobacco industry-related organizations.

Q. Do you know the names of them?

A. The Tobacco Institute.

Q. Any other ones?

A. That's the only one that comes to mind.

Q. So is it fair to say UST, Inc. is not a member of the Tobacco Institute?

A. Yes, that's correct. It's not a member.

Q. Okay. Do you know what the Council for Tobacco Research is?

A. I have heard of it.

Q. Is UST, Inc. a member of the Council for Tobacco Research?

A. No.

Q. Is United States Tobacco Company a member of the Council for Tobacco Research?

A. I don't recall. I -- some of these councils have been disbanded over the years, and I'm just not sure which ones are still in existence.

Q. Would there be any documentation anywhere relating to the Council for Tobacco Research and the membership of United States Tobacco Company?

A. I don't know.

Q. Do you know who might know?

A. No.

Q. Now you said in your earlier testimony, if I am not mistaken, that some of the Board of Directors of United States Tobacco Company were also Board of Directors of UST, Inc.

MR. MCKENNA: Today?

A. I don't recall saying --

Q. You said in the past --

MR. MCKENNA: Well, rather than try to find your note, why don't you ask her the question again.

A. I believe my response to that question was I didn't recall.

Q. Okay. Do any of the Board of Directors of United States Tobacco Company attend meetings of the Tobacco Institute?

MR. MCKENNA: Could you read the question back, please?

(The question is read by the reporter.)

A. I don't know.

Q. Do you know who pays the dues for the Tobacco Institute?

A. No.

Q. Would accounting for UST, Inc. know the answer?

A. I don't know.

Q. Do you know who would have any records with regard to the Tobacco Institute?

A. No.

Q. Or do you know who would have any records of United States Tobacco Company's association with the Tobacco Institute?

A. No.

Q. Does UST, Inc. and United States Tobacco Company have any of the same officers?

A. Yes.

Q. Who are those officers?

A. Myself.

Q. Um-humm.

A. Wendy Grammas, treasurer. Robert D'Alessandro, senior vice president and comptroller. And Rodney K. Buckwalter, vice president in charge of taxes.

Q. What is the function of United States Tobacco Company today?

A. It is a holding company for its principal subsidiaries.

Q. Going back to the officers that serve in the capacity both with UST, Inc. and United States Tobacco Company, is there any sort of service agreement between the two entities?

A. No.

Q. How are you or any of the other officers compensated for doing your work for both entities?

A. What do you mean by how are we compensated?

Q. How are you paid?

A. By check.

Q. From?

A. UST, Inc.

Q. Do you have to write down the number of hours that you personally work for United States Tobacco Company?

A. No.

Q. Is there any requirement that you do a certain number of functions or hours for the United States Tobacco Company?

A. No.

Q. Approximately how much of your time is spent doing things for United States Tobacco Company?

A. I have no idea. I have never measured it. I have never kept track.

Q. Could you guess? Half your time?

MR. McKENNA: She's not here to guess. She said --

Q. Could you approximate how much time you spend?

MR. McKENNA: Objection to the form of the question.

Q. On average per week.

MR. McKENNA: That assumes there is an average per week. Object to the form of the question.

If you can answer it, try and answer it.

She's obviously having difficulty answering the question, so...

Q. If she can answer, let's give her a little time to answer.

MR. McKENNA: If you can't really do it now, you don't have to do it now, because you have said you really --

A. I really can't assess that.

Q. How is UST, Inc. benefiting from your functions that you perform at United States Tobacco Company?

MR. McKENNA: Object to the form of the question.

Q. How is UST, Inc. compensated for the functions you perform at United States Tobacco Company?

MR. McKENNA: Object to the form of the question.

A. I don't understand that question.

Q. UST, Inc. pays you for functions you perform at United States Tobacco Company. That's correct to say, isn't it?

A. As well as other functions I perform for

other companies.

Q. And in what way is UST, Inc. benefiting in the form of compensation in any way from what you do at United States Tobacco Company?

MR. McKENNA: Object to the form of the question.

A. I don't understand the question. I'm sorry.

Q. When you do things for United States Tobacco Company, does UST, Inc. profit in any way?

MR. McKENNA: Object to the form of the question.

A. I -- I don't know how to answer that. I'm sorry. I don't understand what you mean.

MR. McKENNA: If you don't understand --

Q. Do you perform services for United States Tobacco Company that you're compensated for by UST, Inc.?

MR. McKENNA: Object to the form of the question.

A. I'm compensated by UST, Inc. That is who I receive my compensation from.

Q. I just want a yes or no.

MR. McKENNA: Well, that's interesting what you want.

MS. McCOURT: It is, but that's what I want. I want a yes or no. Let's say hypothetically.

MR. McKENNA: I want lots of things, too, you know.

Q. Do you get a paycheck from anyone else besides UST, Inc.?

A. No.

Q. And you do perform services for United States Tobacco Company?

A. Yes.

Q. You are wholly compensated for those services by UST, Inc.?

MR. McKENNA: Object to the form of the question.

A. I'm compensated by UST, Inc. for all of my services.

MS. McCOURT: Does anyone else have anything to add? I have no further questions.

MS. FEY: I have no questions.

MR. McKENNA: No questions. She's not going to waive reading and signing.

MS. HONDORF: We don't expect her to.

MR. McKENNA: She needs to be sent the original.

MS. HONDORF: We have an outstanding document request, 30(b)(7).

MS. McCOURT: Off the record.

(Discussion off the record.)

MS. McCOURT: I'm going to attach as Exhibit 2 the notice of deposition duces tecum of UST, Inc.

(Baker 2 marked for identification.

MS. McCOURT: And included in Exhibit 2 would be the outstanding document request for UST, Inc. which they have not as of yet complied with.

MR. MCKENNA: I'd like to mark for identification a copy of the letter dated June 5, 1997 to Miss McCourt from Ken Harrigan which addresses the notice and matters relating to the deposition here today. I'd like to have that marked for identification as Exhibit 3.

(Baker 3 marked for identification.)

(Deposition adjourned at 11:30 a.m.)

(Exhibits retained by the court reporter.)

JURAT

I, DEBRA A. BAKER, do hereby certify that I have read the foregoing transcript of my testimony, taken on June 11, 1997, and have signed it subject to the following changes:

PAGE	LINE	CORRECTION
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DEBRA A. BAKER

DATE:

Sworn and subscribed to before me on this day
of

NOTARY PUBLIC _____

C E R T I F I C A T E

I, BARBARA JOHNSON, a Certified Shorthand Reporter and Notary Public of the States of New Jersey and New York, do hereby certify that prior to the commencement of the examination the witness was sworn by me to testify the truth, the whole truth and nothing but the truth.

I do further certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action and that I am not interested in the event nor outcome of this litigation.

Notary Public of the State of New Jersey
New Jersey Certificate No. XI00346